

13 SEP 30 AM 8:25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	Case No.13MJ3470-WVG
Plaintiff,)	
v.)	FINDINGS OF FACT AND
)	ORDER OF DETENTION
MERLE FERGUSON,)	
Defendant.)	

In accordance with § 3143 of the Bail Reform Act of 1984 (18 U.S.C. § 3141 et seq.), a detention hearing was held on September 17, 2013, to determine whether defendant MERLE FERGUSON (the "Defendant") should be held in custody pending trial on the grounds that he is a flight risk. Assistant U.S. Attorney Michael G. Wheat appeared on behalf of the United States; Attorney Ward Stafford Clay, appeared on behalf of the Defendant.

Based on the evidence proffered by the United States and the Defendant, the pretrial services report, and the December 28, 2012, Order of the Honorable Robert J. Jonker, District Judge, Western District of Michigan, the

1 Court concludes that defendant did not present clear and
2 convincing evidence that conditions could be set that
3 would reasonably assure his appearance.

4 I.

5 FINDINGS OF FACT

6 A. Nature and Circumstances of the Offense Charged
7 (18 U.S.C. § 3143)

8 The Defendant was found guilty of civil contempt as
9 detailed in Western District of Michigan case No. 10-CV-
10 755, Docket Item 311.

11 B. Weight of the Evidence Against the Defendant

12 The weight of the evidence against the Defendant is
13 strong in that the Defendant was found guilty by the
14 district court.

15 C. History and Characteristics of the Defendant

16 1. The Defendant is a 66 year-old United States
17 citizen, and is presently living in a house in Encinitas,
18 California, with roommates. The Defendant has no known
19 employment in the United States.

20 2. Although the Defendant has some ties to the
21 Southern District of California, he has lived in
22 California since at least 2009 and has not sought or
23 obtained a California driver's license since 1999. He did
24 get a Nevada driver's license in 2011, claiming a
25 residence in Nevada.

26 3. The Defendant owns no real property in the United
27 States. The Defendant has no known employment in the
28 United States. Defendant's son, Chad Ferguson, a
professional poker player from Las Vegas, Nevada, was in

1 court to support Defendant, but told PTS that he did not
2 know what his father did for a living.

3 4. Defendant did serve in the armed services of the
4 United States.

5 D. Nature and Seriousness of Danger Posed by Release
6 (18 U.S.C.S 3142(g)(4)) -

7 There is nothing to suggest that release of the
8 Defendant would pose a danger to any person or the
9 community.

10 II.

11 REASONS FOR DETENTION

12 A. There is more than probable cause to believe that
13 the Defendant was found guilty of civil contempt as
14 detailed in Western District of Michigan case No. 10-CV-
15 755, Docket Item 311.

16 B. The Defendant has limited ties to this community.
17 He therefore has a strong motive to flee.

18 C. Defendant failed to show by clear and convincing
19 evidence that conditions could be set.

20 //

21 //

22 //

III.

ORDER

IT IS HEREBY ORDERED that the Defendant be detained pending trial in this matter.

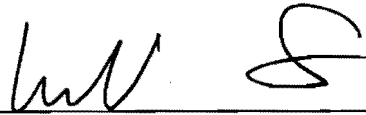
IT IS FURTHER ORDERED that the Defendant be committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The Defendant shall be afforded reasonable opportunity for private consultation with counsel.

While in custody, upon order of a court of the United States or upon the request of an attorney for the United States, the person in charge of the correctional facility shall deliver the Defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding or any other appearance stipulated to by defense and government counsel.

THIS ORDER IS ENTERED WITHOUT PREJUDICE.

IT IS SO ORDERED.

DATED: September 26, 2013.



WILLIAM V. GALLO
United States Magistrate Judge

Prepared by:

MICHAEL G. WHEAT
Assistant U.S. Attorney